

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESale PRICE	)	MDL No. 1456
LITIGATION	)	Civil Action No. 01-12257-PBS
_____	)	
	)	Subcategory No. 06-11337-PBS
THIS DOCUMENT RELATES TO:	)	
	)	Hon. Patti B. Saris
<i>United States of America ex rel. Ven-a-Care of</i>	)	
<i>the Florida Keys, Inc. v. Abbott Laboratories,</i>	)	
<i>Inc., Civil Action No. 06-11337-PBS;</i>	)	
	)	
<i>United States of America ex rel. Ven-a-Care of</i>	)	
<i>the Florida Keys, Inc. v. Dey, Inc., et al., Civil</i>	)	
<i>Action No. 05-11084-PBS; and</i>	)	
	)	
<i>United States of America ex rel. Ven-a-Care of</i>	)	
<i>the Florida Keys, Inc. v. Boehringer</i>	)	
<i>Ingelheim Corp., et al., Civil Action No. 07-</i>	)	
<i>10248-PBS</i>	)	

**DECLARATION OF GEORGE B. HENDERSON, II**  
**SUBMITTING EXHIBITS IN SUPPORT OF**  
**UNITED STATES' RESPONSE TO DEFENDANTS'**  
**COMBINED LOCAL RULE 56.1 STATEMENT OF**  
**ADDITIONAL MATERIAL FACTS PERTINENT TO THE UNITED STATES'**  
**MOTIONS FOR PARTIAL SUMMARY JUDGMENT AGAINST DEFENDANTS**

I, George B. Henderson, II, do hereby declare as follows:

1. I am an Assistant U.S. Attorney in the Office of the United States Attorney,  
District of Massachusetts. I am a member in good standing of the bar of this Court.
2. On behalf of the plaintiff United States of America, I am submitting with this  
declaration Exhibits in support of the United States' Response to Defendants' Combined Local  
Rule 56.1 Statement of Additional Material Facts Pertinent to the United States' Motions for  
Partial Summary Judgment (MD # 6447, Sub # 422).

3. The following exhibits are true and correct copies of the materials described:

<b>Ex. #</b>	<b>Description</b>
1.	Deposition of Benny Ridout , December 5, 2008, selected pages
2.	Deposition of Sandra Kramer, March 25, 2008, selected pages
3.	30(b)(6) Deposition of David Campana (Alaska), August 21, 2008, selected pages
4.	Deposition of Allen Chapman, December 15, 2008, selected pages
5.	Deposition of Jerry Wells, May 25, 2004, selected pages
6.	Deposition of Jerry Wells, December 15, 2008, selected pages
7.	Deposition of Jerry Wells, May 26, 2005, selected pages
8.	30(b)(6) Deposition of Carl Shirley (Indiana), December 2, 2008, selected pages
9.	30(b)(6) Deposition of Brendan Joyce (North Dakota), December 12, 2008, selected pages
10.	Deposition of Douglas Hillblom, September 23, 2008, selected pages
11.	30(b)(6) Deposition of Cynthia Denemark (Delaware), December 10, 2008, selected pages
12.	30(b)(6) Deposition of Jerry Dubberly (Georgia), December 15, 2008, selected pages, and Deposition Exhibit 18
13.	Deposition of Mary Julia Terrebonne, March 31, 2008, selected pages
14.	Exhibit Abbott 1057 to the Deposition of Mary Julia Terrebonne, March 31, 2008.
15.	Deposition of Frank Tetkoski, December 11, 2008, selected pages
16.	30(b)(6) Deposition of Edward Vaccaro (New Jersey), December 2, 2008, selected pages
17.	Deposition of Larry Reed, September 27, 2007, selected pages
18.	Deposition of Charles Booth, April 23, 2007, selected pages
19.	Deposition of Charles Booth, October 29, 2007, selected pages
20.	Deposition of Robert Vito, June 20, 2007, selected pages, and Deposition Exhibit Abbott 247

21.	Deposition of Kathleen Buto, September 12, 2007, selected pages, and Deposition Exhibit Abbott 283.
22.	Deposition of Bruce Vladeck, May 4, 2007, selected pages
23.	Deposition of Deirdre Duzor, March 26, 2008, selected pages
24.	Deposition of Larry Reed, September 26, 2007, selected pages
25.	Deposition of Larry Reed, October 2, 2008, selected pages
26.	Deposition of Dennis Smith, March 27, 2008, selected pages
27.	Deposition of Deirdre Duzor, February 27, 2008, selected pages
28.	Deposition of Deirdre Duzor, October 30, 2007, selected pages
29.	Deposition of Dennis Smith, February 26, 2008, selected pages
30.	Deposition of Debbie Chang, April 17, 2009, selected pages
31.	30(b)(6) Deposition of Suzette Bridges (Arkansas), December 10, 2008, selected pages
32.	30(b)(6) Deposition of James Kevin Gorospe (California), December 3, 2008, selected pages
33.	30(b)(6) Deposition of James Parker (Illinois), November 18, 2008, selected pages
34.	30(b)(6) Deposition of Lisa Weeks (North Carolina), October 21, 2008, selected pages
35.	Deposition of Cody Wiberg, March 14, 2008, selected pages
36.	Deposition of Thomas Scully, July 13, 2007, selected pages
37.	Exhibit 22 to the March 19, 2008, Deposition of James Kevin Gorospe
38.	30(b)(6) Deposition of Larry Iversen (South Dakota), December 15, 2008, selected pages, and Deposition Exhibit Government 005, Exhibit Dey 911
39.	30(b)(6) Deposition of Mary Julia Terrebonne (Louisiana), November 7, 2008, selected pages
40.	30(b)(6) Deposition of Edward Vaccaro (New Jersey), December 3, 2008, selected pages
41.	30(b)(6) Deposition of John Young (Rhode Island), December 3, 2008, selected pages

42.	30(b)(6) Deposition of Paula Avarista (Rhode Island), December 4, 2008, selected pages
43.	1994 HCFA Memoranda, Re: "Expiration of Pharmacy Reimbursement Moratorium"
44.	Deposition of Susan McCann, October 3, 2007, selected pages
45.	Deposition of Susan McCann, November 7, 2007, selected pages
46.	30(b)(6) Deposition of Joseph Fine (Maryland), December 9, 2008, selected pages
47.	30(b)(6) Deposition of Gary Cheloha (Nebraska), December 3, 2008, selected pages
48.	Deposition of James Kenyon, March 25, 2008, selected pages
49.	30(b)(6) Deposition of Lise Farrand (New Hampshire), October 28, 2008, selected pages
50.	Deposition of Margaret Clifford, October 29, 2008, selected pages
51.	30(b)(6) Deposition of Robert Stevens (New Mexico), December 15, 2008, selected pages
52.	Deposition of Larry Reed, March 18, 2008, selected pages
53.	30(b)(6) Deposition of Frank O'Connor (Delaware), December 10, 2008, selected pages
54.	November 3, 2005 <i>Congressional Record</i>
55.	Deposition of James Vavra, August 16, 2007, selected pages
56.	Deposition of Jerry Wells, December 15, 2004, selected pages
57.	30(b)(6) Deposition of Nancy Nesser (Oklahoma), December 12, 2008, selected pages
58.	Exhibit Abbott 1052 to the March 31, 2008 Deposition of Mary Julia Terrebonne
59.	30(b)(6) Deposition of Jesse Anderson (Oregon), December 16, 2008, selected pages
60.	30(b)(6) Deposition of Kathy Ketchum (Oregon), December 15, 2008, selected pages
61.	Deposition of Jeff Buska, December 14, 2005, selected pages
62.	January 2001, OIG Report: "Medicare Reimbursement of Prescription Drugs"

63.	30(b)(6) Deposition of Larry Reed (United States of America), March 20, 2008, selected pages
64.	Deposition of James Kevin Gorospe, September 22, 2008, selected pages
65.	September 8, 2000, HCFA Program Memorandum (Transmittal: AB-00-86), Re: "An Additional Source of Average Wholesale Price Data in Pricing Drugs and Biologicals Covered by the Medicare Program"
66.	30(b)(6) Deposition of Ann Rugg (Vermont), December 15, 2008, selected pages
67.	30(b)(6) Deposition of Aileen Hiramatsu (Hawaii), May 2, 2008, selected pages
68.	Deposition of David Landsidle, October 15, 2007, selected pages, and Deposition Exhibits 14, 20, 21, 23
69.	February 10, 1997, Interoffice Correspondence, Re: President's Budget Proposal on Medicare Reimbursement of Outpatient Drugs (Abbott case Plaintiffs' Exhibit 1125)
70.	June 5, 1997, Interoffice Correspondence, Re: Monthly Highlights – May, 1997, Washington Office (Abbott case Plaintiffs' Exhibit 1134)
71.	June 4, 1997, Fax Re: Section 10616. Reimbursement for Drugs and Biologicals (Abbott case Plaintiffs Exhibit 1133)
72.	June 20, 1997, Interoffice Correspondence, Re: Lobbying Medicare Drug Reimbursement (Abbott case Plaintiffs Exhibit 1138)
73.	June 13, 1997, Fax, Re: Clarification of Reimbursement for Drugs and Biologicals (Abbott case Plaintiffs Exhibit 1137)
74.	June 30, 1997, Interoffice Correspondence, Re: Medicare Drug Reimbursement (Abbott case Plaintiffs Exhibit 1139)
75.	June 13, 1997, Fax, Re: Payments for Outpatient Prescription Drugs (Abbott case Plaintiffs Exhibit 1136)
76.	August 5, 1997, Letter from Duane Burnham to Bill Archer (Abbott case Plaintiffs Exhibit 1140)
77.	August 5, 1997, Letter from Duane Burnham to J. Dennis Hasert (Abbott case Plaintiffs Exhibit 1141)
78.	November 7, 1997, Interoffice Correspondence, Re: Monthly Highlights – October, 1997, Washington Office (Abbott case Plaintiffs Exhibit 1354)
79.	Deposition of Nancy-Ann Min DeParle, December 5, 2007, selected pages

80.	30(b)(6) Deposition of Robyn Stone (Palmetto), February 29, 2008, selected pages
81.	30(b)(6) Deposition of Paula Sue Walker (CIGNA), March 12, 2008, selected pages
82.	Deposition of Robert Neimann, September 14, 2007, selected pages
83.	Deposition of Bruce Vladeck, June 21, 2007, selected pages
84.	May 5, 2000, Letter from Tom Bliley to Charles Rice (Dey)
85.	October 31, 2000, Letter from Pete Stark to Miles White (Abbott)
86.	Deposition of Kathleen Buto, September 13, 2007, selected pages
87.	<i>Hearings Before the Special Committee on Aging</i> , S. Hrg. 101-747, 101st Cong., 1st Sess. (July 18, 1989, Nov. 16, 1989), Serial No. 101-14, selected pages
88.	October 5, 2000, <i>Supplemental Analysis of Why the United States Should Decline Intervention In United States ex rel. Ven-a-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.</i> , selected pages
89.	Brief of United States, submitted in <i>Louisiana v. U.S. Dept. of Health and Human Services</i> , 905 F.2d 877 (5th Cir. 1990)
90.	Declaration of Mark Duggan
91.	Declaration of Suzanne Graydon
92.	Medi-Cal Drug Rebate Agreement (Dey)
93.	30(b)(6) Deposition of Francis Donald Thompson (United States of America), March 28, 2008, selected pages
94.	Deposition of Thomas Gustafson, December 17, 2007, selected pages
95.	Deposition of Thomas Gustafson, September 28, 2007, selected pages
96.	September 1, 1999, Letter from Norman Drezin (Division of Drug Marketing, Advertising, and Communications) to Charles Rice (Dey)
97.	March 3, 1997, Letter from John Powers (Roxane) to Bill Larkin (Greater New York Hospital Association), Re: "Ipratropium Bromide Inhalation Solution 0.02% 30's"
98.	Rule 30(b)(6) Deposition of Carolyn Helton (CIGNA Government Services), March 13, 2008, selected pages
99.	30(b)(6) Deposition of Suzanne Bridges (Arkansas), December 11, 2008, selected pages

100.	30(b)(6) Deposition of Gary Cheloha (Nebraska), December 2, 2008, selected pages
101.	Deposition of Mark Duggan, May 19, 2009, selected pages

I swear under the penalties of perjury that the foregoing statements are true and correct.

/s/ George B. Henderson, II

George B. Henderson, II  
Assistant U.S. Attorney

Executed this 22<sup>nd</sup> day of September, 2009